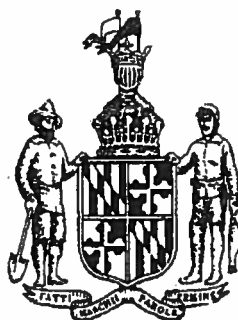


MODEL CURFEW ORDINANCE FOR LOCAL JURISDICTIONS

**From
THE CABINET COUNCIL ON
CRIMINAL AND JUVENILE JUSTICE**

LT. GOVERNOR KATHLEEN KENNEDY TOWNSEND, CHAIR



October 23, 1996



STATE OF MARYLAND
OFFICE OF THE GOVERNOR

October 23, 1996

Dear *Maryland Communities*:

I am proud to present you with a model ordinance for implementing an effective and constitutional curfew in your jurisdiction. During the 1996 Maryland Municipal League summer conference in Ocean City, I was pleased to see the level of interest in curfews as a tool for local communities to prevent juvenile crime and victimization. Using the successful Dallas curfew as a guide, and working closely with the Department of Juvenile Justice, the Governor's Office of Crime Control & Prevention, and the Office of the Attorney General, my office has designed this model ordinance as a way to help local communities craft curfews that will survive legal challenges in court.

Curfews are now in place in more than 150 of the 220 largest cities across the country, and in about one-fifth of Maryland's municipalities. When curfews are well implemented, and are an element of a comprehensive crime prevention and control strategy, they have shown remarkable success. A well planned curfew initiative will include structured after school and evening activities and programs for youth and parents along with law enforcement support. Curfews can be part of a consistent message to children -- and to parents -- that we can set community standards and expect our children and parents to live up to them.

A truly effective curfew requires the full support of local law enforcement officers, parents, youth, schools, churches, businesses, and community leaders. Therefore, it is critical that curfews remain a tool that is developed and implemented for and by local communities, rather than a mandate imposed from Annapolis or Washington.

Thank you for your interest in this crucial issue. If there is anything the Glendening Administration can do to help you implement a comprehensive curfew program, please do not hesitate to contact my office.

With Warm Wishes,

A handwritten signature in black ink, reading "Kathleen Townsend".

Lt. Gov. Kathleen Kennedy Townsend, Chair
Cabinet Council on Criminal & Juvenile Justice

MODEL JUVENILE CURFEW ORDINANCE

[This model ordinance is based on the Dallas ordinance upheld in Qutb v. Strauss, 11 F.3d 488 (5th Cir. 1993) cert. denied 114 S.Ct. 2134 (1994), the Frederick ordinance as amended after Ashton v. Brown, 339 Md. 70 (1995), and the Baltimore City and Prince George's County ordinances. The Frederick ordinance is based upon a model published by the International Municipal Lawyers Association, formerly named the National Institute of Municipal Law Officers.]

An ordinance to establish a curfew applicable to minors and regulating their conduct in public places; defining terms; defining the duties of parents or guardians of minors, and operators of establishments; providing for exceptions to protect the rights of minors; providing for procedures of and enforcement by the *[local law enforcement agency]*; providing certain penalties; providing a repealer clause; providing a severability clause; and providing an effective date.

[The following is suggested language concerning the justification for a juvenile curfew ordinance. The constitutionality of an ordinance will depend on the particular circumstances of a jurisdiction, i.e., whether a compelling government interest is demonstrated, a curfew is the least restrictive solution to the jurisdiction's concerns, and the curfew restrictions are narrowly tailored. Each local jurisdiction must make independent factual findings concerning local conditions and adapt the "Whereas" clauses to specifically reflect how those local conditions create a compelling government interest and need for a curfew. Moreover, the ordinance itself must be narrowly tailored to meet those specific local concerns in the least restrictive manner.]

WHEREAS, the *[local jurisdiction]* council has determined that there has been an increase in violence and crime involving minors as perpetrators and victims, and an increase in juvenile gang activity in the *[local jurisdiction]*, resulting in minors being involved in a wide range of illegal behavior including vandalism, public drinking, drug use

and sale, assault, theft, robbery, burglary, and possession of deadly weapons; and

WHEREAS, persons under the age of 17 are particularly susceptible by their lack of maturity, judgment, and experience, to participate in unlawful and gang-related activities and to be victims of crime; and

WHEREAS, the *[local jurisdiction]* has an obligation to provide for the protection of minors from each other and from other persons, for the enhancement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

WHEREAS, the illegal and unacceptable activities of minors are not easily controlled by existing laws and ordinances;

WHEREAS, a curfew for those under the age of 17 will promote the public safety, health, and general welfare, and will help to diminish the incidence of juvenile criminal activity and victimization in the *[local jurisdiction]*;

WHEREAS the passage of this Ordinance is pursuant to the *[local jurisdiction]*'s police power.

NOW, THEREFORE, BE IT ORDAINED BY THE *[local jurisdiction]* COUNCIL OF THE *[local jurisdiction]*:

SECTION 1. BE IT ORDAINED BY THE *[local jurisdiction]* COUNCIL OF *[local jurisdiction]* That Sections of the *[local jurisdiction]* Code be added, repealed, or amended to read as follows:

Section 1-101. Definitions

In this Section the following words have the meanings indicated, unless the context

of their use indicates otherwise:

(a) CURFEW HOURS means:

(1) 11:00 p.m. on any Sunday, Monday, Tuesday,
Wednesday, or Thursday until 6:00 a.m. of the following day;

and

(2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

[The specific curfew hours may be adapted to local needs by limiting them to those days or times when experience has shown a significant increase in juvenile crime and victimization.]

(b) EMERGENCY means an unforeseen circumstance or combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(c) ESTABLISHMENT means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(d) GUARDIAN means:

(1) a person is the legal guardian of the person of a minor; or

(2) a person or agency to whom legal custody of a minor has
been given by court order.

(e) KNOWINGLY means consciously, willfully, intentionally, and includes knowledge that a parent or guardian may reasonably be expected to have concerning the

whereabouts of a minor in their care and custody.

(f) MINOR or JUVENILE means any unemancipated person under 17 years of age.

[Emancipation of a minor may occur, for example, by the valid marriage of the minor. See Family Law Article, § 2-301.]

(g) OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment open to the public. The term includes the members or partners of an association or partnership and the officers of a corporation.

(h) PARENT means a person who is:

- (1) a natural, adoptive, or step-parent of another person; or
- (2) at least 18 years of age and authorized by a parent or guardian to have care or custody of a minor.

(i) PUBLIC PLACE means any place to which the public or a substantial group of the public has access and includes, but is not limited to:

- (1) streets, highways, alleys, sidewalks and any public right-of-way of a street or highway; and
- (2) the common areas of transport facilities, schools, hospitals, apartment houses, office buildings, shopping centers, parks, playgrounds, parking lots, theaters, restaurants, bowling alleys, taverns, cafes, arcades, and shops.

(j) REMAIN means to:

- (1) linger, tarry, or stay unnecessarily in a public place; or
- (2) fail to leave the premises of an establishment or place open to the public when requested to do so by a *[local law enforcement]* officer or an operator or employee of the place or establishment open to the public.

Section 1-102. Curfew for Juveniles

It shall be unlawful for a minor to remain in any public place or on the premises of any establishment within the *[local jurisdiction]* during curfew hours;

Section 1-103. Exceptions

The curfew for juveniles imposed in this Title shall not apply when the minor is:

- (a) accompanied by the minor's parent or guardian;
- (b) on an errand at the direction of the minor's parent or guardian, without any detour or stop, until the hour of 12:30 a.m.;
- (c) accompanied by a person at least 18 years of age and authorized by the minor's parent or guardian to have temporary care or custody of the minor for a designated period of time within a specified area;
- (d) with consent of the minor's parent or guardian, involved in interstate travel through the *[local jurisdiction]* or beginning or ending in the *[local jurisdiction]*;
- (e) engaged in a legal employment activity, or going to or returning home from a legal employment activity, without any detour or stop;

(f) involved in an emergency;

(g) on the property where the minor resides or on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor, if the adult resident of that property has given permission for the minor's presence;

(h) attending, or returning directly home from, without any detour or stop and within one (1) hour of the end of:

(1) a school, religious, or recreational activity supervised by adults and sponsored by the *[local jurisdiction]*, a civic organization, or a voluntary association that takes responsibility for the minor; or

(2) a place of public entertainment, such as a movie, play, or sporting event;

(i) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, by first delivering to the Chief of *[local law enforcement agency]* a written communication which:

(1) is signed by the minor and countersigned, if practicable, by the parent or guardian of the minor;

(2) includes the parent or guardian's home address and telephone number; and

(3) specifies when, where, and in what manner the minor will be in a public place during curfew hours; or

(j) remaining in a public place in a case of reasonable necessity if the minor's

parent or guardian has communicated to the Chief of *[local law enforcement agency]* facts:

- (1) establishing the reasonable necessity;
- (2) designating the specific public place and the points of origin and destination for the minor's travel; and
- (3) the times the minor will be in the public place or traveling to or from the public place.

Section 1-104. Parental Responsibility

It shall be unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the *[local jurisdiction]* during curfew hours.

Section 1-105. Operator Responsibility

(a) It shall be unlawful for the owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

(b) An owner, operator, or any employee of an establishment is not in violation of this ordinance if the owner, operator, or employee promptly notified the *[local law enforcement agency]* that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Section 1-106. Enforcement

(a) If a *[local law enforcement]* officer reasonably believes that a minor is in a public place in violation of § 1-102, the officer shall notify the minor that he or she is in violation of the juvenile curfew law and shall require the minor to tell the officer his or her name, address, telephone number, and how to contact the minor's parent or guardian.

(b) The *[local law enforcement]* officer shall issue the juvenile a written warning that the minor is in violation of the juvenile curfew law and order the minor to promptly go home. The Chief of *[local law enforcement agency]* shall give the minor's parent or guardian written notice of the violation pursuant to § 1-104.

(c) *[local law enforcement agency]* procedures may permit the *[local law enforcement]* officer to take the minor home if appropriate under the circumstances.

(d) Notwithstanding subsection (b) of this Section, the *[local law enforcement]* officer shall take the minor into custody and transport the minor to *[a local law enforcement station or designated curfew center]* when:

- (1) the minor has received one (1) previous written warning for a violation of the juvenile curfew law; or
- (2) the *[local law enforcement]* officer has reasonable grounds to believe that the minor has committed a delinquent act; or
- (3) taking the minor into custody is otherwise authorized under § 3-814 of the Courts and Judicial Proceedings Article of the Maryland Code.

(e) When a minor is taken into custody pursuant to subsection (d) of this Section, the parent or guardian of the minor shall immediately be notified and required to come to the *[local law enforcement station or designated curfew center]* to take custody of the

minor. The *[local law enforcement]* officer shall determine whether, consistent with constitutional safeguards, the minor or the parent or guardian, or both, are in violation of the juvenile curfew law.

(f) When a parent or guardian has arrived at the *[local law enforcement station or designated curfew center]* and the appropriate information has been recorded, the minor shall be released to the custody of the parent or guardian. If the parent or guardian cannot be located or fails to take charge of the minor, then the juvenile shall be released to the Department of Social Services, the Department of Juvenile Justice, or to another adult who will, on behalf of a parent or guardian, assume the responsibility of caring for the juvenile pending the availability or arrival of the parent or guardian.

[While juveniles who violate a curfew ordinance may also have engaged in delinquent acts, the curfew violation itself is a "status offense." State law prohibits secure detention for status offenders, Courts and Judicial Proceedings Article, § 3-815(h)(1), as does the Federal Juvenile Justice and Delinquency Prevention Act. 42 U.S.C. § 5633(a)(12)(A). If necessary to ensure court appearance, processing, release to a parent or guardian, or transfer to court or shelter care, a status offender may be detained for less than 24 hours. 28 C.F.R. §31.303. Accordingly, local jurisdictions should consider the establishment of designated curfew centers where law enforcement officers may bring juvenile curfew violators for temporary detention pending release to their parents or guardians, or other appropriate dispositions.]

Section 1-107. Penalties

- (a) (1) If, after receiving a warning notice of a first violation by a minor, a parent or guardian violates § 1-104 in connection with a second violation by the minor, this shall be treated as a first offense by the parent or guardian and shall be a civil violation pursuant to § _____ of the *[local jurisdiction]* Code.

- (2) For the first offense by a parent or guardian the fine shall be \$____. For each subsequent offense by a parent or guardian the fine shall be increased by an additional \$____, up to a maximum fine of \$____.
- (b) (1) If, after a warning notice, the operator of an establishment open to the public violates § 1-105 a second time, this shall be treated as a first offense by the operator and shall be a civil violation pursuant to § ____ of the *[local jurisdiction]* Code.
- (2) For the first offense by an operator the fine shall be \$____. For each subsequent offense by an operator the fine shall be increased by an additional \$____, up to a maximum fine of \$____.

SECTION 2. BE IT ORDAINED BY THE *[local jurisdiction]* COUNCIL OF *[local jurisdiction]*: That within six months after the initial enforcement of this ordinance, the *[appropriate local jurisdiction official]* shall review this ordinance and report and make recommendations to the *[local jurisdiction]* Council concerning the effectiveness of and the continuing need for the ordinance. The *[appropriate local jurisdiction official]*'s report shall specifically include the following information:

- (a) the practicality of enforcing the ordinance and any problems with enforcement identified by the *[local law enforcement agency]*;
- (b) the impact of the ordinance on crime statistics;

(c) the number of persons successfully prosecuted for a violation of the ordinance;
and

(d) the *[local jurisdiction]*'s net cost of enforcing the ordinance.

SECTION 3. BE IT ORDAINED BY THE *[local jurisdiction]* COUNCIL OF *[local jurisdiction]* : That all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of the inconsistency.

SECTION 4. BE IT ORDAINED BY THE *[local jurisdiction]* COUNCIL OF *[local jurisdiction]*: That if any provision of this ordinance or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of this ordinance are declared severable.

SECTION 5. BE IT ORDAINED BY THE *[local jurisdiction]* COUNCIL OF *[local jurisdiction]*: That this ordinance shall take effect on the date of its enactment.

Sec. 15-9. Definitions applicable to sections 15-10 through 15-15.

For the purposes of sections 15-9 through 15-15E the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words

in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(a) *City* is the city of Frederick, Maryland.

(b) *Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(c) *Establishment* means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(d) *Juvenile* or *minor* is any unemancipated person under the age of seventeen (17) or, in equivalent phrasing often herein employed, any person sixteen (16) or less years of age.

(e) *Operator* is any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(f) *Parent* is any person having legal custody of a juvenile (i) as a natural or adoptive parent, (ii) as a legal guardian, (iii) as a person who stands in loco parentis, or (iv) as a person to whom legal custody has been given by court order.

(g) *Public place* means any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, common areas of schools, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public. As a type of public place, a street is a way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. "Street" includes that legal right-of-way, including but not limited to the cartway of traffic lanes, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right-of-way of a street.

(h) *Remain* means to stay behind, to tarry and to stay unnecessarily in a public place including the congregating of groups (or of interacting minors) totaling four (4) or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home, or to fail to leave the premises of an establishment when requested to do so by a police officer or the operator of an establishment. To implement this provision with additional precision and precaution, numerous exceptions are expressly defined in sections 15-10 through 15-15E. More and more exceptions become available with a juvenile's increasing years and advancing maturity as appropriate in the interest of reasonable regulation.

(i) *Time of night* referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed at that hour by the public in the city; prima facie the time then observed in the city administrative offices and police station.

(j) *Years of age* continues from one birthday, such as the sixteenth to (but not including the day of) the next, such as the seventeenth birthday, making it clear that sixteen (16) or less years of age is herein treated as equivalent to the phrase "under seventeen (17) years of age," the latter phrase in practice, unfortunately, having confused a number of persons into the mistaken thought that seventeen (17) years old might be involved. Similarly, for example, eleven (11) or less years of age means "under twelve (12) years of age." (Ord. No. G-78-15, § 1, 6-15-78; Ord. No. G-95-17, § 1, 6-15-95)

Sec. 15-10. Unlawful conduct of juveniles.

It shall be unlawful for any person sixteen (16) or less years of age (under seventeen (17)) to be or remain in or upon a public place within the city of Frederick during the period ending at 6:00 a.m. and beginning:

- (a) At 11:59 p.m. on Friday and Saturday nights, and
- (b) 11:00 p.m. on all other nights. (Ord. No. G-78-15, § 1, 6-15-78; Ord. No. G-95-18, § 1, 6-15-95)

Sec. 15-11. Exceptions to section 15-10.

The following shall constitute valid exceptions to the operation of section 15-10.

- (a) When a juvenile is accompanied by a parent of such a juvenile;
- (b) When a juvenile is accompanied by an adult authorized by a parent of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area;
- (c) When the juvenile is on an errand as directed by his/her parent until the hour of 12:30 a.m.;
- (d) When a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, by first delivering to the person designated by the city's chief of police to receive such information a written communication, signed by the juvenile and countersigned, if practicable, by a parent of the juvenile with their home address and telephone number, specifying when, where and in what manner the juvenile will be in a public place during hours when section 15-10 is applicable to said minor in the exercise of a First Amendment right specified in such communication.

(e) In case of reasonable necessity for the juvenile remaining in a public place but only after the juvenile's parent has communicated to the chief of police or the person designated by the chief of police to receive such notifications the facts establishing the reasonable necessity relating to a specified public place at a designated time for a described purpose including points of origin and destination. A copy of the communication, or of the police record thereof, duly certified by the chief of police to be correct, with an appropriate notation of the time it was received and of the names and addresses of the parent and juvenile, shall be admissible evidence;

(f) When a juvenile is on the sidewalk or property where the juvenile resides, or on either side of or across the street from the place where the juvenile resides and the adult owner or resident of that property has given permission for the juvenile to be there;

(g) When a juvenile is returning home by a direct route (without any unnecessary detour or stop) from and within one hour of the termination of a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will or does end, the sponsoring organization must register the event with the chief of police (or his assigned representative) at least twenty-four (24) hours in advance, informing the police department of the time that such event is scheduled to begin, the place at which it shall be held, the time at which it shall end, and the name of the sponsoring organization.

(h) When authorized, by special permit from the chief of police carried on the person of the juvenile thus authorized, as follows. When necessary nighttime activities of a juvenile may be inadequately provided for by other provisions of this section, then recourse may be had to the chief of police, either for a regulation as provided in subsection (i) or for a special permit as the circumstances warrant. Upon the findings of reasonable necessity for the use of a public place to the extent warranted by a written application signed by a juvenile and by a parent of the juvenile, if feasible, stating (1) the name, age and address of the juvenile; (2) the name, address, and telephone number of a parent thereof; (3) the height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile; (4) the necessity that requires the juvenile to remain upon a public place during the curfew hours otherwise applicable; (5) the public place; and (6) the beginning and ending of the period of time involved by date and hour, the chief of police may grant a permit in writing for the juvenile's use of a public place at such hours as in the opinion of the chief of police may reasonably be necessary and consistent with the purposes of this section. In an emergency this may be handled by telephone or other effective communication, with a corresponding record being made contemporaneously to the chief of police or to the

person designated by the chief of police to act on his behalf in an emergency, at the police station;

(i) When authorized, by regulation issued by the chief of police in other similar cases of reasonable necessity, similarly handled but adapted to reasonably necessary nighttime activities of more juveniles than can readily be dealt with on an individual special permit basis. Normally such regulation by the chief of police permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools, and shall define the activity, the scope of the use of the public places permitted, the period of time involved not to extend more than one hour beyond the time for termination of the activity, and the reason for finding that the regulation is reasonably necessary and is consistent with the purpose of this section;

(j) When the juvenile is legally employed and carries a certified card of employment, renewable each calendar month when the current facts so warrant, dated or reissued not more than forty-five (45) days previously, signed by the chief of police and briefly identifying the juvenile, the addresses of the juvenile's home and of the juvenile's place of employment, and the juvenile's hours of employment;

(k) When the juvenile is, with parental consent, engaged in normal interstate travel through the city or originating or terminating in the city;

(l) When the juvenile is married or has been married pursuant to state law;

(m) In the case of an operator of an establishment, when the operator has notified the police that a juvenile was present on the premises of the establishment during curfew hours and refused to leave;

(n) Each of the foregoing exceptions, and their several limitations such as provisions for notification, are severable, as hereinafter provided but here reemphasized, and will be considered by the mayor and board of aldermen when warranted by future experience illuminated by the views of student government associations, school personnel, citizens, associations, parents, officers and persons in authority concerned positively with juveniles as well as with juvenile delinquency. (Ord. No. G-78-15, § 1, 6-15-78; Ord. No. G-95-19, 6-15-95)

Sec. 15-12. Unlawful conduct of parents.

It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to remain in any city public place under circumstances not constituting an exception to, or otherwise beyond the scope of, section 15-10. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement

is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile. (Ord. No. G-78-15, § 1, 6-15-78; Ord. No. G-95-20, § 1, 6-15-95)

Sec. 15-13. Unlawful conduct of owners and operators of establishments.

It shall be unlawful for any operator of an establishment knowingly to permit a juvenile to remain at the establishment under circumstances not constituting an exception to, or otherwise beyond the scope of, section 15-10. The term "knowingly" includes knowledge that an operator should reasonably be expected to have concerning the patrons of the establishment. The standard for "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's position should have known that the patron was a juvenile in violation of section 15-10. (Ord. No. G-78-15, § 1, 6-15-78; Ord. No. G-95-21, § 1, 6-15-95)

Sec. 15-14. Enforcement and penalty.

(a) If a police officer reasonably believes that a juvenile is in a public place in violation of section 15-10, the officer shall notify the juvenile that he/she is in violation of section 15-10 and shall require the juvenile to provide his/her name, address and telephone number and how to contact his/her parent or guardian. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate, a police officer shall, in the first instance of violation of section 15-10, use his/her best judgment in determining age.

(b) The police officer shall issue the juvenile a written warning that the juvenile is in violation of section 15-10 and order the juvenile to go promptly home. The chief of police shall send the parent or guardian of the juvenile written notice of the violation pursuant to section 15-14.

(c) Police procedure shall constantly be refined in the light of experience and may provide that the police officer may deliver to a parent or guardian thereof a juvenile under appropriate circumstances; for example, a juvenile of tender age, near home, whose identity and address may readily be ascertained or are known.

(d) Notwithstanding subsection (b) of this section, when: (i) a juvenile has received one previous written warning for violation of section 15-10; or (ii) a police officer has reasonable grounds to believe that the juvenile has engaged in delinquent conduct, the procedure shall then be to take the juvenile to the police station where a parent or guardian shall immediately

be notified to come for the juvenile whereupon the parent or guardian and the juvenile shall be questioned. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the person designated there and then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus, making available experienced personnel and access to information and records.

(e) When a parent or guardian, immediately called, has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the juvenile may temporarily be entrusted to an adult, neighbor or other person who will on behalf of a parent or guardian assume the responsibility of caring for the juvenile pending the availability or arrival of a parent or guardian.

(f) In the case of a first violation of section 15-10 by a juvenile, the chief of police shall by certified mail send to a parent or guardian written notice of the violation with a warning that any subsequent violation will result in full enforcement of sections 15-10 through 15-15 including enforcement of parental responsibility and of applicable penalties.

(g) For the first violation of section 15-13 by an operator of an establishment who permits a juvenile to remain on the premises, a police officer shall issue a written notice of the violation with a warning that any subsequent violation will result in full enforcement of sections 15-10 through 15-15 including enforcement of operator responsibility and of applicable penalties.

(h) In the event the police officer shall, within twenty-four (24) hours, file a written report with the chief of police or shall participate to the extent of the information for which he/she is responsible in the preparation of a report on the curfew violation. It is not the intention of this section to require extensive reports that will prevent police officers from performing their primary police duties. The reports shall be as simple as is reasonably possible and may be completed by police departmental personnel other than sworn police officers. (Ord. No. G-78-15, § 1, 6-15-78; Ord. No. G-95-22, § 1, 6-15-95)

Sec. 15-15. Penalties.

(a) If, after the warning notice pursuant to section 15-14 of a first violation by a juvenile, a parent violates section 15-12 (in connection with a second violation by the juvenile), this shall be treated as a first offense by the parent. For the first offense by a parent, the fine shall be in an amount not to exceed one hundred dollars (\$100.00), and for each subsequent offense by a parent the fine shall be increased by an additional one hundred dollars (\$100.00),

(e.g., two hundred dollars (\$200.00) for the second offense, three hundred dollars (\$300.00) for the third offense) up to a maximum fine of one thousand dollars (\$1,000.00). The judge of the district court of Maryland for Frederick County, upon finding a parent guilty, shall sentence the parent to pay this fine and the cost of prosecution.

(b) The parent or legal guardian having custody of a juvenile subject to this section shall be liable for all costs incurred by the city for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent or guardian does not pick up the juvenile within one hour after receiving notice from the city that the city is detaining the juvenile for a curfew violation. The amount to be paid by the parent or guardian shall be based on the hourly wage of the city employee who is assigned to remain with the juvenile plus the cost of benefits for that employee.

(c) The parent or legal guardian having custody of a juvenile subject to this section shall be liable for any fine or condition of restitution or reparation imposed by a court upon a curfew violator, provided that the curfew violator has not paid the fine or made restitution or reparation within the time ordered by the court, and further provided that the parent or legal guardian has been made a party defendant in all enforcement proceedings against the curfew violator and shall be served with all citations, summons, complaints, notices, and other documents required to be served on the curfew violator defendant.

(d) Any juvenile who shall violate any of the provisions of section 15-10 more than three (3) times shall be reported by the chief of police to the juvenile authorities as a juvenile in need of supervision and the chief of police may proceed to file such charges with the juvenile court as he may deem appropriate.

(e) If, after the warning notice pursuant to section 15-14 of a violation of section 15-13, an operator of an establishment violates section 15-13 a second time, this shall be treated as a first offense by the operator. For the first offense by an operator, the fine shall be in an amount not to exceed one hundred dollars (\$100.00), and for each subsequent offense by an operator the fine shall be increased by an additional one hundred dollars (\$100.00), (e.g., two hundred dollars (\$200.00) for the second offense, three hundred dollars (\$300.00) for the third offense) up to a maximum fine of one thousand dollars (\$1,000.00). (Ord. No. G-95-23, § 1, 6-15-95)

Sec. 15-15A. Construction and severability.

(a) Severability is intended throughout and within the provisions of sections 15-9 through 15-15. If any provision, including any exception, part, phrase, or term, or the application thereof to any person or circumstances is held

invalid, the application to other persons or circumstances shall not be affected thereby and the validity of sections 15-9 through 15-15 in any and all other respects shall not be affected thereby.

(b) **Advisory Opinions.** The mayor, after consultation with the city attorney, is hereby authorized to give advisory opinions in writing, which shall be binding and shall be adhered to by the police, until sections 15-9 through 15-15 are amended in such respect, interpreting terms, phrases, parts or any provisions. Normally such advisory opinions shall be in response to good faith, signed letters addressed to the mayor or to a member of the board of aldermen, questioning the curfew ordinance as: (1) ambiguous; (2) having a potentially chilling effect on constitutional rights specifically invoked; or (3) otherwise invalid, in all three (3) categories with respect to proposed conduct definitely described. This administrative remedy must be exhausted prior to presenting to any court a question in any of the three (3) categories. The mayor and board of aldermen do not intend a result through the enforcement of sections 15-9 through 15-15 that is absurd, impossible of execution or unreasonable. The mayor and board of aldermen intend that sections 15-9 through 15-15 be held inapplicable in such cases, if any, where their application would be unconstitutional under the Constitution of the State of Maryland or the Constitution of the United States of America. (Ord. No. G-95-24, § 1, 6-15-95)

Sec. 15-15B. Continuing evaluation.

The mayor and board of aldermen shall continue its evaluation and updating of sections 15-9 through 15-15 through methods including but not limited to:

(a) Within six (6) months after the implementation of sections 15-9 through 15-15, the chief of police shall provide the mayor and board of aldermen with a report concerning the effect of sections 15-9 through 15-15 on crimes committed by and against minors, and of the number of warnings issued and arrests of minors, parents, and operators hereunder, and such other information as the mayor and board of aldermen may request.

(b) On a regular basis, the mayor and board of aldermen shall receive informal reports of all exceptional cases hereunder of reasonable necessity, the notices of school and other activities, the special permits and the regulations authorized above, and the advisory opinions for consideration by the mayor and board of aldermen in further updating and continuing evaluation of sections 15-9 through 15-15. (Ord. No. G-95-25, § 1, 6-15-95)

Sec. 15-15C. Notice.

Notice of the existence of sections 15-9 through 15-15 and of the curfew regulations established by it shall be posted in, on or about such public or

ment in order that the public may be constantly informed of the existence of sections 15-9 through 15-15 and their regulations. (Ord. No. G-95-26, § 1, 6-15-95)

Sec. 15-15D. Repealer.

All ordinances and parts of ordinances inconsistent with the provisions of sections 15-9 through 15-15 are hereby repealed. (Ord. No. G-95-27, § 1, 6-15-95)

Sec. 15-15E. Reserved.

Editor's note—Ord No. G-96-26, § 1, adopted June 13, 1996, repealed § 15-15E, relative to expiration date for §§ 15-9 through 15-15E, derived from Ord. No. G-95-28, § 1, adopted June 15, 1995.

Sec. 15-16. Electrical fixtures—Defacing, injuring, etc.

It shall be unlawful for any person to deface, injure, break or cause to be broken any city electric lamp, globe, shade, electric light pole or any rope, wire or fixture belonging to the city. (Code 1953, § 12.16)

Sec. 15-17. Firearms—Discharge within city.

It shall be unlawful for any person to fire, discharge or set off any gun, rifle, pistol, revolver or other firearms, air rifle, cannon, torpedo, squib or other dangerous weapon of any character within the city without a written permit from the chief of police and director of safety; provided, that this section shall not apply to members of any military company when engaged in drilling or target practice under the command or direction of any officer thereof, or to the use of firearms in the lawful defense of person or property, or to the use of firearms by members of the police department in the lawful discharge of their duty. (1961 Supp., § 12.49)

Sec. 15-18. Fornication in public places.

It shall be a nuisance and unlawful for any person to commit the crime of fornication in any of the streets or in any other public places within the city. (Code 1953, § 12.18; Ord. No. G-75-7, § 1)

ENROLLED ORIGINAL

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2006 Fall
Supp.

West Group
Publisher

To amend, on an emergency basis, the Juvenile Curfew Act of 1995 to authorize the Mayor to modify curfew hours by issuing an executive order; to amend Title 16 of the District of Columbia Official Code to require the Family Court of the Superior Court of the District of Columbia and the Director of the Department of Youth Rehabilitation Services to disclose specified information to the Chief of the Metropolitan Police Department; to require the Metropolitan Police Department to notify the Superintendent of the District of Columbia Public Schools of the filing of a petition against a student by the Office of the Attorney General for certain offenses and to disclose certain records relating to the charge; to amend Titles 23 and 16 of the District of Columbia Official Code to create a rebuttable presumption for detaining certain adults and juveniles charged with robbery or certain handgun violations pending a trial or disposition hearing; to amend Chapter 25 of Title 24 of the District of Columbia Municipal Regulations governing the Metropolitan Police Department's Closed Circuit Television system to authorize its use in the prevention, detection, deterrence, and investigation of crime; to require the Mayor to make available to the Council certain Metropolitan Police Department records relating to the performance of officers, to provide biweekly crime briefings to the Council, and to submit to the Council a Crime Emergency Plan for each police district; to require the Mayor to conduct reviews of certain violations of persons who are on pre-trial release, parole, or probation, and to request that the United States Marshals' Service prioritize pending arrest and fugitive warrants for persons who have committed certain offenses; and to amend the Fiscal Year Budget Support Act of 2006 to require that the Metropolitan Police Department maintain the total percent of sworn officers assigned to the police districts as existed on June 11, 2006.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006".

TITLE I. AUTHORITY OF THE MAYOR TO ESTABLISH ALTERNATIVE CURFEW HOURS.

Sec. 101. The Juvenile Curfew Act of 1995, effective September 20, 1995 (D. C. Law 11-48; D.C. Official Code § 2-1541 *et seq.*), is amended by adding a new section 3a to read as follows:

"Sec. 3a. Authority of Mayor to establish alternative curfew hours.

"(a) The Mayor may establish alternative curfew hours as required for public safety purposes by issuance of an executive order and in accordance with this section. Notice of the

Note,
§ 2-1542

alternative curfew hours shall be provided at least 5 days prior to implementation of alternative curfew hours in accordance with subsection (b) of this section, and the alternative curfew hours shall remain in effect for a period of not more than 30 consecutive days. The Mayor may extend the alternative curfew hours for additional 30-day periods by issuance of subsequent executive orders when public safety requires it. The executive order establishing the alternative curfew hours and any subsequent executive orders extending the alternative curfew hours shall specify the alternative curfew hours, the dates of implementation and expiration of the alternative curfew hours, and the public safety reasons for the establishment of the alternative curfew hours. No curfew shall begin earlier than 10:00 p.m. on any given day.

“(b) Notice shall be posted on the District government and Metropolitan Police Department websites, and published in a newspaper of general circulation at least 5 days prior to the implementation of the alternative curfew hours. The Mayor shall also provide written notice of the alternative curfew hours to the Council and to Advisory Neighborhood Commissions at least 5 days prior to the implementation of the alternative curfew hours. The notice shall specify the alternative curfew hours, the dates of implementation and expiration of the alternative curfew hours, and the public safety reasons for the establishment of the alternative curfew hours. The Mayor shall publish notice of the alternative curfew hours in the District of Columbia Register.”.

TITLE II. MANDATORY DISCLOSURE OF JUVENILE RECORDS.

Part A.

Sec. 201. Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-2301 is amended by adding a new paragraph (43) to read as follows:

Note,
§ 16-2301

“(43) The term “weapons offense” means any violation of any law, rule, or regulation which involves the sale, purchase, transfer in any manner, receipt, acquisition, possession, having under control, use, repair, manufacture, carrying, or transportation of any firearm, ammunition, or destructive device as these terms are defined in section 7-2501.01.”.

(b) Section 16-2331 is amended by adding a new subsection (d-1) to read as follows:

Note,
§ 16-2331

“(d-1)(1) Notwithstanding subsections (b), (b-1), (b-2), (c), or (d) of this section, for every respondent who the Office of the Attorney General has filed a petition against for the following: (i) a crime of violence (as defined in section 23-1331(4)); (ii) a weapons offense; (iii) unauthorized use of a vehicle; (iv) theft in the first degree where the property obtained or used is a motor vehicle (as defined in section 22-3215(a)); or (v) the Office of the Attorney General has filed 3 or more petitions against the respondent, and the respondent is not detained by the Family Court of the Superior Court of the District of Columbia (“Family Court”) pursuant to section 16-2313(b)(3), the Family Court shall, within 48 hours of the decision not to detain the respondent, provide the following case record information to the Chief of the Metropolitan Police Department (“Chief”):

“(A) Respondent’s name;

“(B) Last known home address of the respondent;

“(C) Last known address of the respondent’s parents, guardians, caretakers, and custodians;

“(D) Address to which the respondent will be placed and the name and address of the person into whose custody the respondent will be placed; and

“(E) All terms of the placement or conditions of release.

“(2) Notwithstanding subsections (b), (b-1), (b-2), (c), or (d) of this section, the

Family Court shall provide the following case record information to the Chief for all stay-away orders and post-adjudication probation orders issued for a respondent :

- “(A) Respondent’s name;
- “(B) Last known home address of the respondent;
- “(C) Last known address of the respondent’s parents, guardians, caretakers, and custodians;
- “(D) Address to which the respondent will be placed or released and the name and address of the person into whose custody the respondent will be placed;
- “(E) All terms of the placement or conditions of release or probation; and
- “(F) All terms or conditions of the stay-away order or probation order.

“(3) The Chief shall utilize information obtained from the Family Court and may only disclose such information to law enforcement persons or law enforcement entities as the Chief determines is necessary to preserve public safety or the safety of the respondent. The Chief shall not otherwise disclose this information, except as authorized by this section and by section 212 of the Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006, passed on emergency basis on July 19, 2006 (Enrolled version of Bill 16-877).

“(4) If the Chief discloses information pursuant to paragraph (3) of this subsection, the Chief shall notify the recipient that the information may only be re-disclosed to law enforcement officers and only to the extent necessary to preserve public safety or the safety of the respondent. The Chief shall notify the recipient of the information that any other use or disclosure of the information shall be governed by this section and sections 16-2332 and 16-2333, and that unauthorized re-disclosure may be prosecuted under section 16-2336.”

Note,
§ 16-2332

(c) Section 16-2332 is amended by adding a new subsection (d-1) to read as follows:

“(d-1)(1) Notwithstanding subsections (b), (c), or (d) of this section, for every respondent in the legal custody of the Department of Youth Rehabilitation Services (“Department”) pursuant to section 16-2320(c)(2) who has been adjudicated of: (i) a crime of violence (as defined in section 23-1331(4)); (ii) a weapons offense; (iii) unauthorized use of a vehicle; (iv) theft in the first degree where the property obtained or used is a motor vehicle (as defined in section 22-3215(a)); or (v) adjudicated 3 or more times, the Director of the Department (“Director”) shall provide notice to the Chief of:

“(A) Any assignment, transfer, or placement of a respondent in a Department facility or residential or other placement, including any facility operated by a contractor or agent, at least 5 business days prior to the assignment, transfer, or placement; and

“(B) Any release of a respondent from any Department facility, or residential or other placement operated by the Department or a contractor or agent, at least 5 business days prior to the release.

“(2) Notwithstanding subsections (b), (c), or (d) of this section, for any respondent who is detained or in the legal custody of the Department, the Director shall provide notice to the Chief of:

“(A) Any respondent absconding from a Department facility, or residential or other placement, including any facility or placement operated by an agent or contractor, within one hour of the absconding; and

“(B) Any respondent being absent without authorization from a Department facility, or residential or other placement, including any facility or placement operated by an agent or contractor, within 3 hours of learning that the respondent is absent without authorization.

“(3) Notice issued pursuant to this subsection shall include the following

information, as applicable:

- “(A) Respondent’s name;
- “(B) Last known home address of the respondent;
- “(C) Last known address of the respondent’s parents, guardians, caretakers, and custodians;
- “(D) Address to which the respondent will be assigned, transferred, placed, or released and the name and address of the person into whose custody the respondent will be placed if the respondent is not placed into a Department facility;
- “(E) A recent photograph of the respondent; and
- “(F) All terms or conditions of the assignment, transfer, placement, or release.

“(4) The Chief shall utilize information obtained from the Director and may disclose such information to law enforcement persons or law enforcement entities as necessary to preserve public safety or the safety of the respondent. The Chief shall not otherwise disclose this information, except as authorized by this section.

“(5) If the Chief discloses information pursuant to paragraph (4) of this subsection, the Chief shall notify the recipient that the information may only be re-disclosed to law enforcement officers and only to the extent necessary to preserve public safety or the safety of the respondent. The Chief shall notify the recipient of the information that any other use or disclosure of the information shall be governed by this section and sections 16-2331 and 16-2333, and that unauthorized re-disclosure may be prosecuted under section 16-2336.

“(6) The Chief may make additional inquiries to the Director based upon the information disclosed under paragraph (1) of this subsection. The Director shall provide supplemental information to the Chief when requested by the Chief, as necessary to protect public safety or the safety of the respondent.”.

Part B.

Sec. 211. Definitions.

For the purposes of this part, the term:

- (1) "Reportable offense" means:
 - (A) A crime of violence; or
 - (B) Any offense enumerated in section 212(b).
- (2) "School population" mean all persons enrolled or legitimately on the premises of the school in which the student is enrolled, or any personnel of the school in which the student is enrolled.
- (3) "Student" means a person enrolled in the District of Columbia Public Schools or charter schools.

Sec. 212. Notification of reportable offenses.

(a) If a student has a petition filed against him by the Office of the Attorney General for a reportable offense enumerated in subsection (b) of this section, the law enforcement agency making the arrest shall notify the Superintendent of the District of Columbia Public Schools of the arrest and the charges against the student within 24 hours of the filing of the petition, or as soon as practicable.

(b) Pursuant to subsection (a) of this section, the Metropolitan Police Department shall notify the Superintendent of the District of Columbia Public Schools if a student has a petition filed against him by the Office of the Attorney General for:

- (1) The unlawful purchase, possession, or use of a weapon;
- (2) Homicide;
- (3) Felonious assault and bodily wounding;
- (4) Criminal sexual assault;
- (5) The manufacture, sale, gift, distribution, or possession of a Schedule I or Schedule II controlled substance;
- (6) Manufacture, sale, gift, distribution, or possession of marijuana;
- (7) Arson and related crimes; or
- (8) Burglary and related offenses.

Sec. 213. Dissemination and maintenance of records of reportable offenses.

(a) Except by court order, upon good cause shown, the arrest information received by the Superintendent regarding the student, pursuant to section 212(a) is confidential and shall:

(1) Not be disclosed by subpoena or otherwise except to the principal of the school in which the student is enrolled and other school personnel necessary to carry out the purposes set forth in this part;

(2) Not be made part of the student's permanent record; and

(3) Remain separate from all other records concerning the student.

(b) The principal of the school in which the student is enrolled shall forward a copy of the report obtained from the Metropolitan Police Department to the student's parent or guardian upon the student's removal from the school population, except in cases where the student is emancipated.

TITLE III. REBUTTABLE PRESUMPTION TO DETAIN ROBBERY AND HANDGUN VIOLATION SUSPECTS.

Note,
§ 23-1322

Sec. 301. Section 23-1322(c) of the District of Columbia Official Code is amended as follows:

(a) Paragraph (1) is amended by striking the phrase "or imitation firearm;" and inserting the phrase "imitation firearm, or other deadly or dangerous weapon;" in its place.

(b) Paragraph (3) is amended by striking the phrase "offense; or" and inserting the word "offense;" in its place.

(c) Paragraph (4) is amended by striking the phrase "federal offense." and inserting the phrase "federal offense;" in its place.

(d) New paragraphs (5), (6), and (7) are added to read as follows:

"(5) Committed 2 or more dangerous crimes or crimes of violence in separate incidents that are joined in the case before the judicial officer;

"(6) Committed a robbery in which the victim sustained a physical injury; or

"(7) Committed CPWL, carrying a pistol without a license."

Note,
§ 16-2310

Sec. 302. Section 16-2310 of the District of Columbia Official Code is amended by adding a new subsection (a-1) to read as follows:

"(a-1) There shall be a rebuttable presumption that detention is required to protect the person or property of others if the judicial officer finds by a substantial probability that the child:

"(1) Committed a dangerous crime or a crime of violence, as these crimes are defined in section 23-1331, while armed with or having readily available a pistol, firearm,

imitation firearm, or other deadly or dangerous weapon;

"(2) Committed a dangerous crime or crime of violence, as these terms are defined in section 22-1331, and has previously been adjudicated delinquent for a dangerous crime or crime of violence which was committed while on release pending a fact-finding or disposition hearing for a local, state or federal offense;

"(3) Committed a dangerous crime or crime of violence, as these crimes are defined in section 23-1331, while on release pending a fact-finding or disposition hearing for a local, state, or federal offense;

"(4) Committed 2 or more dangerous crimes or crimes of violence, as these crimes are defined in section 23-1331, in separate incidents that are joined in the case before the judicial officer;

"(5) Committed a robbery in which the victim sustained a physical injury; or

"(6) Committed CPWL, carrying a pistol without a license."

Note,
§ 16-1331

Sec. 303. Section 23-1331 of the District of Columbia Official Code is amended by adding a new paragraph (6) to read as follows:

"(6) The term "physical injury" means bodily harm greater than transient pain or minor temporary marks."

TITLE IV. USE OF CLOSED CIRCUIT TELEVISION TO COMBAT CRIME.

DCMR

Part A.

Sec. 401. Chapter 25 of Title 24 of the District of Columbia Municipal Regulations is amended as follows:

(a) Section 2500.1 is amended by striking the phrase "within the Synchronized Operations Command Complex (SOCC)".

(b) Section 2500.2 is amended by striking the phrase "and (2) to coordinate traffic control on an as needed basis" and inserting the phrase "(2) to coordinate traffic control on an as needed basis; and (3) to combat crime as authorized by § 2508." in its place.

(c) Section 2501.10 is repealed.

(d) Section 2502.1 is amended to read as follows:

"2502.1 The Chief of Police shall provide public notification prior to the deployment of any additional permanent cameras, except:

"(a) Under exigent circumstances; or

"(b) When cameras are deployed pursuant to a court order."

(e) Section 2504.2 is amended by striking the phrase "SOCC personnel will enter activation information, including the disposition of any observed incidents, into the running resume of the daily SOCC report, including" and inserting the phrase "MPD personnel will record activation information, including the disposition of any observed incidents," in its place.

(f) Section 2504.3 is amended to read as follows:

"2504.3 An official at the rank of Sergeant or above shall be present and shall supervise and monitor CCTV activities wherever they may occur."

(g) Section 2505.4 is amended by striking the phrase "of the SOCC."

(h) Section 2505.11 is amended by striking the phrase "SOCC staff shall maintain a video catalog" and inserting the phrase "MPD personnel shall maintain a video catalog" in its place.

(i) A new section 2508 is added to read as follows:

"2508 USE OF CCTV TO COMBAT CRIME

"2508.1 The Chief of Police is authorized to use the CCTV system for the purpose of preventing, detecting, deterring, and investigating crime in neighborhoods in the District of Columbia.

"2508.2 The Chief of Police shall, at a minimum, consider the following factors prior to using the CCTV system to combat crime:

"(a) The number and type of calls for service in the proposed CCTV camera location;

"(b) Any crimes that were committed in the proposed CCTV camera location; and

"(c) A request or recommendation made by the Advisory Neighborhood Commission (ANC), or a civic or citizen association; and

"(d) Any other objectively verifiable information from which the Chief of Police may ascertain whether the health, safety, or property of residents who live in the proposed CCTV location are endangered by crime or other illegal activity.

"2508.3 The Chief of Police shall have the final authority to decide where to place a CCTV camera or CCTV cameras for crime fighting purposes, although the Chief of Police shall be required to give consideration to locating cameras within public housing developments in Hot Spot Areas.

"2508.4 When CCTV is used to combat crime, recordings may be passively monitored, meaning that the video feeds may not be monitored in real time, and recordings may be viewed by MPD personnel where there is reason to believe that the viewing may help solve a crime.

"2508.5 The Chief of Police shall consult with the relevant Councilmember and the relevant ANC Commissioner prior to deploying CCTV cameras to combat crime. An ANC, or a civic or citizen association, upon determination of need, may submit a request to the Chief of Police that a CCTV camera be placed in its neighborhood.

"2508.6 Within one year of initiating the use of CCTV to combat crime, the Chief of Police shall report to the Mayor and to the Council on the system's effectiveness at preventing, detecting, or solving crime. The report shall also evaluate whether the presence of cameras served to displace criminal activity."

(j) Section 2599.1 is amended to read as follows:

"2599 DEFINITIONS

"2599.1 When used in this chapter, the following words and phrases shall have the meanings ascribed:

"ANC – Advisory Neighborhood Commission.

"Chief of Police – The Chief of Police or his or her designee.

"Closed Circuit Television – Any live video link that is electronically received into any MPD property.

"Demonstration – A temporary presentation of the capacity of the CCTV system to visitors of the MPD.

"Exigent Circumstances – Unanticipated situations that threaten the immediate safety of individuals or property within the District of Columbia; provided, that the cameras have no greater scope or capabilities than reasonably necessary to achieve a legitimate law enforcement purpose.

"External Video Feeds – Any video link received by MPD on a live basis from a source other than MPD.

"Public Entities – District of Columbia, state, or federal agencies.

"Public Notice or Notification– Notice that includes at a minimum, but is not limited to, publication in the *D.C. Register*, posting on the MPD website, written notice to the relevant Councilmember, written notice to the relevant ANC Commissioner, and issuance of a press

release.”.

Part B.

Sec. 411. Exemption from procurement practices.

Contracts necessary to implement the use of the Closed Circuit Television system by the Metropolitan Police Department, including contracts for cameras, site assessment, monitoring devices, labor, and installation, shall not be subject to the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*). Such contracts shall be subject to section 451 of the District of Columbia Home Rule Act, approved December 23, 1974 (87 Stat. 803; D.C. Official Code § 1-204.51).

TITLE V. ACCOUNTABILITY OF THE METROPOLITAN POLICE DEPARTMENT.

Sec. 501. Accountability of the Metropolitan Police Department.

(a) The Mayor shall make available to the Council, as of the last day of each month and on a confidential basis, without the names of individuals, all adverse personnel actions and rationale for the adverse personnel action taken against members of the Metropolitan Police Department (“MPD”).

(b) The Mayor shall designate one employee in each of the 7 MPD police districts with the sole responsibility of making patrol schedules and granting leave.

(c) The Mayor shall make available to the Council, on a monthly basis, performance reviews of all MPD Lieutenants.

(d) The Mayor shall make available to the Council, on a monthly basis, individual productivity reports on each police officer, including the following activities:

- (1) On-duty court time;
- (2) Detail time;
- (3) Felony arrests;
- (4) Misdemeanor arrests;
- (5) Traffic arrests;
- (6) Police reports;
- (7) Motor carriers in motorcades;
- (8) Curfew violations;
- (9) Traffic stops;
- (10) Guns recovered (make and model);
- (11) Stolen automobiles;
- (12) Drugs seized (number and type);
- (13) Radio runs; and
- (14) Business checks.

(e) The Mayor, or his designee, shall provide biweekly crime briefings to the Council. These briefings shall include the Chief of Police, or his designee.

(f) The Mayor shall submit to the Council the Crime Emergency Plan for each police district by the effective date of this act.

TITLE VI. REVIEW OF PRE-TRIAL RELEASE, PAROLE, AND PROBATION VIOLATIONS; PRIORITIZATION OF ARREST AND FUGITIVE WARRANTS.

Sec. 601. 30-day review of pre-trial release, parole, and probation violations.

(a) The Mayor shall conduct a 30-day review of any violations of conditions of release by any person on pre-trial release for the following offenses:

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- (1) Armed robbery; and
- (2) Robbery with force and violence.

(b) The Mayor shall conduct a 30-day review of any violations of any person on parole or probation for the following offenses:

- (1) Murder in the first degree;
- (2) Murder in the second degree;
- (3) Armed robbery;
- (4) Robbery with force and violence;
- (5) First degree sexual abuse;
- (6) Assaults with a deadly or dangerous weapon; and
- (7) Any crime of violence as defined in section 1 of An Act To control the

possession, sale, transfer and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-4501(f)), and D.C. Official Code § 23-1331(4).

(c) Within 90 days of the effective date of this act, the Mayor shall submit a report to the Council on the reviews conducted pursuant to subsections (a) and (b) of this section.

Sec. 602. Prioritization of pending warrants.

The Mayor shall request that the United States Marshals' Service for the District of Columbia prioritize pending arrest and fugitive warrants to correspond directly to the offense listed in section 601.

TITLE VII. BUDGET SUPPORT ACT AMENDMENT.

Sec. 701. Section 2055(14)(A) of the Fiscal Year Budget Support Act of 2006, passed on 2nd reading on July 11, 2006 (Enrolled version of Bill 16-679), is amended by striking the phrase "The Metropolitan Police Department maintain equivalent staffing levels as existed on June 11, 2006 in each of the 7 police districts;" and inserting the phrase "The Metropolitan Police Department maintain the total percent of sworn officers assigned to the police districts as existed on June 11, 2006;" in its place.

TITLE VIII. FISCAL IMPACT.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

TITLE IX. EFFECTIVE DATE.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia